

United States
Circuit Court of Appeals

For the Ninth Circuit.

In the Matter of DAVID JACOBS and ISAAC
JACOBS, Copartners Doing Business as
JACOBS BROS.,

Bankrupts.

DAVID JACOBS and ISAAC JACOBS,

Petitioners,

vs.

S. T. HILLS, as Trustee of the Estate of DAVID
JACOBS and ISAAC JACOBS, Doing Busi-
ness as JACOBS BROS., Bankrupts,

Respondent.

Petition for Revision

Under Section 24b of the Bankruptcy Act of Congress, Approved
July 1, 1898, to Revise, in Matter of Law, a Certain Order
of the United States District Court for the
Western District of Washington,
Northern Division.

Filed

JUL 1 - 1916

F. D. Monckton,
Clerk.

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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*In the United States Circuit Court of Appeals in and
for the Ninth Circuit.*

No. —.

In the Matter of DAVID JACOBS and ISAAC
JACOBS, Copartners Doing Business as
JACOBS BROS.,

Bankrupts.

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S. T. HILLS, as Trustee of the Estate of DAVID
JACOBS and ISAAC JACOBS, Doing Busi-
ness as JACOBS BROS., Bankrupts,

Respondent.

Notice of Filing of Petition for Revision.

To S. T. HILLS, Trustee of the Estate of David
Jacobs and Isaac Jacobs, Doing Business as
JACOBS BROS., Bankrupts, Respondent, and
to WETTRICK, ANDERSON & WETTRICK,
and HUDSON & MADISON, His Attorneys:

You, and each of you, are hereby notified that we
are this day sending, by mail, to the clerk of the Cir-
cuit Court of Appeals, a petition to review and re-
vise the order of the District Judge requiring the
said bankrupts to turn over to the said S. T. Hills,
as trustee, goods, wares and merchandise of the
value of thirty-one hundred eighty-nine (\$3189.00)
dollars, as more particularly set forth in the order
of the Court entered on the 17th day of May, 1916,

with the request to file said petition.

WALTER SCHAFFNER,
ROMAINE & ABRAMS,

Attorneys for Petitioners.

Service of copy of the above notice and petition therein mentioned acknowledged this 31st day of May, 1916.

WETTRICK, ANDERSON & WETTRICK,
HUDSON & MADISON,

Attorneys for Trustee.

[Endorsed]: Original. No. 2804. In the Circuit Court of Appeals of the United States for the Ninth Circuit. In the Matter of David Jacobs et al., Doing Business as Jacobs Bros., Bankrupts, David Jacobs and Isaac Jacobs, Petitioners, vs. S. T. Hills as Trustee of Above Estate, Respondent. Notice. Filed Jun. 3, 1916. F. D. Monckton, Clerk.

*In the United States Circuit Court of Appeals in and
for the Ninth Circuit.*

No. —.

In the Matter of DAVID JACOBS and ISAAC
JACOBS, Copartners Doing Business as
JACOBS BROS.,

Bankrupts.

DAVID JACOBS and ISAAC JACOBS,

Petitioners,

vs.

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JACOBS and ISAAC JACOBS, Doing Busi-
ness as JACOBS BROS., Bankrupts,

Respondent.

Petition for Revision.

To the Honorable Judges of the United States Circuit Court of Appeals in and for the Ninth Circuit:

Your petitioners David Jacobs and Isaac Jacobs, respectively represent:

I.

That on the 13th day of June, 1915, a petition was filed in the District Court of the United States for the Western District of Washington, Northern Division, praying that your petitioners, as copartners doing business under the firm name and style of Jacobs Bros., might be adjudged bankrupts within the purview of the Acts of Congress relating to bankruptcy, and that such proceedings were had thereon that on the 13th day of July, 1915, orders were duly made and entered in said cause adjudging your petitioners to be such bankrupts and referring the said cause for further proceedings to the Honorable J. F. Moore, one of the referees in bankruptcy of said Court.

II.

That thereafter, at a meeting of creditors regularly and duly called before the said referee and held on the 2d day of August, 1915, one S. T. Hills was appointed as trustee of the estate of your petitioners, as copartners as aforesaid, and thereafter duly qualified as such trustee and has ever since said time been acting as such.

III.

On the 5th day of October, 1915, the said S. T.

Hills, as trustee as aforesaid, filed a petition before the said referee praying that an order might be entered requiring your petitioners to turn over to the said trustee goods, wares and merchandise of the value of Thirty-one Hundred Eighty-nine (\$3189.00) Dollars. That on said date there was issued, without notice to your petitioners, an order requiring your petitioners to show cause why that petition should not be granted, which said order was returnable on the 13th day of October, 1915.

IV.

That on the said last-mentioned date, your petitioners appeared before the said referee in person and by their attorneys, and moved that the said petition of the trustee be made more definite and certain, and that certain particulars be more fully set forth in the written motion then filed with the said referee, and also that the third paragraph be stricken. That thereupon the referee, having heard the argument of counsel, denied the first of said motions and sustained the second. That to the ruling of the said referee, denying the said motion, your petitioners then and there accepted.

V.

That thereupon hearings were had on said petition and on the 2d day of January, 1916, the said referee entered an order directing your petitioners to turn over to the said trustee goods, wares and merchandise of the approximate value of Thirty-one Hundred Eighty-nine (\$3189.00) Dollars.

VI.

That thereafter petitions were duly filed by both, your petitioners and the said trustee, praying that the said proceedings might be certified to the District Judge and that the same might, by him, be reviewed, and that thereafter a hearing was had before the said District Judge, and on the 15th day of May, 1916, the said District Judge entered findings of fact and conclusions of law, and on the 17th day of May, 1916, made and entered his order requiring your petitioners to turn over and surrender to the trustee, within twenty days, goods, wares, and merchandise of the value of Thirty-one Hundred Eighty-nine (\$3189.00) Dollars.

VII.

Your petitioners further represent that in the said order of the District Judge entered on the 17th day of May, 1916, and in the records and proceedings aforesaid, there is manifest error in this:

1. That finding No. 9 was wholly immaterial and the facts therein stated were not involved in any of the issues raised by the said petition.

2. That finding No. 10 was wholly immaterial and the facts therein stated were not involved in any of the issues raised by the said petition.

3. That that part of finding No. 11 which finds that your petitioners now have property of the value of Thirty-one hundred eighty-nine (\$3189.00) Dollars belonging to their estate in bankruptcy, is wholly immaterial and not involved in any of the issues raised by said petition.

4. That that portion of said finding No. 11 which

finds that your petitioners now conceal and withhold from the trustee the said property is wholly immaterial and not involved in any of the issues raised by said petition.

5. That that part of finding No. 11 which finds that the Court is satisfied beyond all reasonable doubt of the present ability of your petitioners, and each of them, to deliver said assets to the trustee, is immaterial and not involved in any of the issues raised by the said petition, and is without warrant of law.

6. That in none of the Findings of Fact is the property, claimed to be withheld, specified.

7. That that portion of finding No. 11 which finds that the Court is satisfied beyond all reasonable doubt of the matters and things therein set forth is immaterial and without warrant of law.

8. That neither of the conclusions of law made by the said District Judge are justified by the findings of fact herein.

9. That the order entered by the District Judge is not justified by the findings of fact herein.

10. That the said District Judge should have found that the trustee was not entitled to the relief sought by him, and should have denied and dismissed the said petition.

VIII.

That your petitioners present and file herewith a duly certified copy of so much of the records of the proceedings in the said bankruptcy matter as pertains to the matters and things hereinbefore set forth.

WHEREFORE, your petitioners pray that an order may be entered requiring the said S. T. Hills, as trustee of the estate of your petitioners as aforesaid, to answer to this petition within some time to be fixed by the Court, and that this petition and said answer may be heard by this Court, and that at the time of the said hearing, the action of the said District Court may be reviewed and revised and an order entered reversing the order of the said District Judge.

Your petitioners will ever pray etc.

DAVID JACOBS,

ISAAC JACOBS,

Copartners Doing Business as Jacobs Bros.

WALTER SCHAFFNER.

ROMAINE & ABRAMS,

Attorneys for Petitioners.

State of Washington,

County of Whatcom,—ss.

David Jacobs and Isaac Jacobs, each for himself, being first duly sworn, on oath deposes and says:

I am one of the petitioners in and have read the foregoing petition by me subscribed and know the contents thereof and the same is true.

DAVID JACOBS.

ISAAC JACOBS.

Subscribed and sworn to before me this 25th day of May, 1916.

[Seal]

J. W. HEALY,

Notary Public in and for the State of Washington,
Residing at Bellingham.

[Endorsed]: Original. No. ——. In the Circuit Court of the United States for the Ninth Circuit. In the Matter of David Jacobs and Isaac Jacobs, Copartners Doing Business as Jacobs Bros., Bankrupts, David Jacobs and Isaac Jacobs, Petitioners, vs. S. T. Hills, as Trustee of Above Estate, Respondent. Petition.